

REFUJIA LUNA

VS.

Defendant.

CIVIL ACTION NO.
4:22-cv-15

Defendant BW Gas & Convenience Retail, LLC. (“Defendant”), files its Notice of Removal of this action from the 48th Judicial District Court, Tarrant County, Texas to the United States District Court for the Northern District of Texas, Fort Worth Division, the Court for the District encompassing the place where the lawsuit is currently pending and the division where the subject action took place. In support of this removal, Defendant relies upon the Index Filed in Support of Defendant’s Notice of Removal filed contemporaneously herewith and shows the following:

1. On November 30, 2021, Plaintiff filed an Original Petition in the 48th Judicial District Court, Tarrant County, Texas captioned *Refugia Luna v. BW Gas & Convenience Retail LLC. d/b/a Allsup's Convenience Stores*, Cause Number 048-330593-21 (the “State Court Action”). The Petition was served on Defendant on December 9, 2021.

II. BASIS FOR REMOVAL

2. This Court has original jurisdiction over this State Court Action, pursuant to 28 U.S.C. §1332(a), because it is a civil action between citizens of different states where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

3. The Plaintiffs seek monetary relief between \$250,000 and \$1,000,000. *See* Exhibit “A – No. 2” at paragraph II, page 1. Accordingly, the amount in controversy in this matter meets and exceeds the federal jurisdictional minimum of \$75,000, exclusive of interest and costs.

4. Plaintiff is a resident of Snyder, Scurry County, TX. *See* Exhibit “A – No. 2” at paragraph 6, page 2.

5. Defendant, BW Gas & Convenience Retail, LLC. at the time of the filing of this action, at the time of this removal, at all relevant times since and is currently, a citizen of the State of Delaware because it is a Delaware corporation with its principal place of business in the State of Massachusetts.

7. Because the amount in controversy exceeds \$75,000 and Plaintiff is a citizen of Texas while Defendant is a citizen of Delaware, this Court has original jurisdiction over the present action pursuant to 28 USC §1332. Therefore, removal is proper.

8. This action may be removed to this Court pursuant to 28 USC §1441(a), which allows for the removal of any civil action brought in the state court of which the District Courts of the United States have original jurisdiction, by the defendant or the defendants, to the District Court of the United States for the district and division embracing the place where such action is pending.

9. This Notice of Removal is filed within thirty (30) days after service (January 7, 2022) by Defendant of the State Court Action. This Notice of Removal has also been filed within

one year of the filing of Plaintiff's Original Petition by which the State Court Action was commenced. This Notice, therefore, if timely filed pursuant to 28 USC §1446 (b).

III. PROCEDURAL REQUIREMENTS

10. In accordance with 28 USC section 1446 (D), Defendant will promptly give written notice of this Notice of Removal to Plaintiff through counsel of record and file a copy of this Notice of Removal in the 48th Judicial District Court, Tarrant County, Texas.

11. Defendant reserves the right to amend or supplement this Notice of Removal.

12. The following are included in the Index filed contemporaneously with this Notice of Removal:

Exhibit "A": An appendix of all documents that clearly identifies each document and indicates the date the document was filed in the State Court action and includes the following documents:

1. State Court Civil Docket Sheet
2. Plaintiff's Original Petition
3. Service Request on BW Gas & Convenience Retail, LLC
4. Defendant's Original Answer
5. BW Gas & Convenience Retail, LLC
6. Defendant's Notice of Removal-State Court

For the above reasons, Defendant gives notice of the removal of the State Court Action to this Court and respectfully requests that this action proceed before this Court as though it had originally been instituted in this Court.

Dated: January 7, 2022.

Respectfully submitted,

BROCK ♦ GUERRA
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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing has been served in accordance with the Federal Rules of Civil Procedure on this 7th day of January 2022, to:

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